

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS & ENERGY

In re Competitive Market Issues Inquiry (Phase II)))))	DTE No. 01-54
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**REPLY COMMENTS OF THE MASSACHUSETTS CHAPTER OF THE
NATIONAL ASSOCIATION OF INDUSTRIAL AND OFFICE PROPERTIES**

Pursuant to the Hearing Officer's order dated December 11, 2001, the Massachusetts chapter of the National Association of Industrial and Office Properties ("NAIOP") submits the following response to some of the initial comments filed in this proceeding.

A. Attorney General

(1) Distribution Companies as Electricity Brokers

NAIOP agrees with the Attorney General that allowing Distribution Companies to perform the role of electricity broker for their default-service or standard offer customers conflicts with intent of the Electric Restructuring Act, and risks the return of the electricity market to the pre-restructuring era. The unbundling of distribution service from generation service, and the separation of the roles played by each service provider, is a central underpinning of electric restructuring, and a key component of the restructured regulatory system established by the Act.

(2) Customer Account Numbers on Customer Information Lists

NAIOP agrees with the Attorney General that Customer Account Numbers should not be included on Customer Information Lists. Including Customer Account Numbers on Customer Information Lists is unnecessary to perform a marketing function, would further erode customer privacy protections, and would likely facilitate the unauthorized switching of customers.

(3) Customer Information Lists to include information about customers who receive generation service from competitive supplier

NAIOP agrees with the Attorney General that Customer Information Lists should not include information about customers who receive generation service from competitive suppliers. One can hardly argue that a customer who has chosen a competitive supplier and is receiving service from that supplier is nonetheless facing “barriers” to competition. Those who claim otherwise are merely seeking ratepayer-subsized marketing

B. Dominion Retail, Inc. (“Dominion”)

(1) Distribution Companies as Electricity Brokers

NAIOP agrees with Dominion that Distribution Companies are not prepared to perform the role of electricity broker for their default-service or standard-offer customers. NAIOP also agrees that such moves would not necessarily increase competition in the market.

(2) Customer Account Numbers on Customer Information Lists

NAIOP disagrees with Dominion with respect to including customer account numbers on Customer Information Lists. Including Customer Account Numbers on Customer Information Lists is not critical to electricity marketing, would further erode customer privacy protections, and would likely facilitate the unauthorized switching of customers. Dominion fails to suggest effective mechanisms to ensure customer protections, which would be compromised if account numbers are included on Customer Information Lists.

C. Select Energy, Inc. (“Select”)

(1) Distribution Companies as Electricity Brokers

NAIOP agrees with Select that having Electric Distribution Companies perform the role of electricity broker for their default-service or standard-offer customers could lead to anti-competitive behavior and could intrude on the functions of the free market.

(2) Customer Account Numbers on Customer Information Lists

NAIOP disagrees with Select with respect to including Customer Account Numbers on Customer Information Lists. Including Customer Account Numbers on customer information lists may simplify enrollment for customers, but it likely will come at the cost of consumer protections.

D. Power Options, Inc.

(1) Distribution Companies as Electricity Brokers

NAIOP agrees with Power Options that Electric Distribution Companies that perform the role of electricity broker for their default-service or standard-offer customers will homogenize supply terms, reduce benefits to many customers, and create greater risks for customers.

(2) Customer Account Numbers on Customer Information Lists

NAIOP agrees with Power Options that customer consent should be required prior to the inclusion of account numbers on Customer Information Lists.

(3) Customer Information Lists to include information about customers who receive generation service from competitive suppliers

NAIOP agrees with Power Options that Customer Information Lists should not include information about customers who receive generation service from competitive suppliers because this action conflicts with the intent of the Department to encourage competition in the market. Existing customers of competitive suppliers are already participants in the market. Including them on Customer Information Lists will not further their exposure to the market.

E. Massachusetts Division of Energy Resources (“DOER”)

(1) Distribution Companies as Electricity Brokers

NAIOP disagrees with DOER’s position that Distribution Companies should perform a role similar to an electricity broker for their default-service or standard-offer customers. At this

stage of restructuring, distribution companies (and, ultimately, their ratepayers) should not be responsible for educating customers about their choices. The burden of informing customers about products is best left in the hands of the competitive suppliers themselves.

(2) Customer Account Numbers on Customer Information Lists

NAIOP also disagrees with DOER on the subject of including Customer Account Numbers on Customer Information Lists. DOER fails to recognize that such a system would compromise protections from unauthorized customer enrollments.

F. Western Massachusetts Electric Company (“WMECO”)

(1) Distribution Companies as Electricity Brokers

NAIOP agrees with WMECO that Distribution Companies are not prepared to perform the role of electricity broker for their default-service or standard-offer customers. WMECO’s comments demonstrate that in order to perform brokerage functions, the distribution companies will have to incur substantial investments, the cost of which likely would be borne by ratepayers.

(2) Customer Account Numbers on Customer Information Lists

NAIOP agrees with WMECO’s comments on Customer Account Numbers. Requiring suppliers to obtain this information directly from customers provides a crucial safeguard against slamming.

G. Massachusetts Electric Company and Nantucket Electric Company (“Mass Electric”)

NAIOP agrees with Mass Electric with respect to including Customer Account Numbers on Customer Information Lists. Customer information (apart from names and addresses) can be proprietary. Customers do not want such information released without their authorization.

H. Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company, d/b/a Nstar Electric (“NStar”)

NAIOP agrees with NStar that Customer Account Numbers should not be included on Customer Information Lists. Protecting customers from unscrupulous marketing practices must take priority over minimal reductions in enrollment costs. Suppliers need only request a customer’s account number in order to assist enrollment, whereas providing suppliers customer-account numbers only invites slamming and other unscrupulous practices.

I. Usource, LLC

Usource’s proposal states as its objective the “rapid transition to competitive markets” through Usource’s distribution-company based brokerage model. NAIOP questions whether the Restructuring Act contemplated this objective. The Act expressly provides for a transition period that guarantees a smooth – and not a “rapid” – transition to a competitive market. NAIOP believes that distribution companies should not enter the brokerage business at this time, or any other time. Were the Department to order the distribution companies to adopt such a system, however, the Usource proposal correctly places the cost of that system on those who would benefit from it: competitive suppliers.

J. Competitive Suppliers Group

(1) Distribution Companies as Electricity Brokers

NAIOP agrees with the Competitive Suppliers Group that distribution companies should not act as electricity brokers for their customers, and that there should be no forced assignment of commercial or industrial default- or standard-offer service customers.

(2) Customer Account Numbers on Customer Information Lists

NAIOP agrees with the Competitive Suppliers Group that Customer-Account Numbers should not be disclosed on Customer Information Lists, in order to prevent “slamming” by

unscrupulous suppliers. Suppliers who are worthy of customer respect will have no trouble convincing customers to provide such information voluntarily.

(3) Disclosure of Customers Who Receive Competitive Supply

For the reasons set forth in its Initial Comments, NAIOP disagrees with the Competitive Suppliers Group about disclosure of the names of customers already receiving competitive supply.

Respectfully submitted,

MASSACHUSETTS CHAPTER OF THE
NATIONAL ASSOCIATION OF INDUSTRIAL
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